

## "The goalposts haven't been shifted and they will not be shifted"

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*With the congressional elections scheduled to take place in November 2006, time appears to be running out for the passage of the legislation that will give effect to the nuclear co-operation deal between India and the United States. What are the chances that the U.S. Congress will enact the enabling law before its current term comes to an end? U.S. Ambassador David C. Mulford provides answers to this and related questions in an interview in Chennai.*



*David C. Mulford: "It is up to India to decide what is in its national interests. If it finds that the agreement isn't helpful, then I suppose it will not accept it." — PHOTO: Shaju John*

**Mr. Ambassador, you said in Jaipur that the United States and India Nuclear Cooperation Promotion Act is likely to be passed before the U.S. Congress finishes its term. What if it isn't and one of the Houses is captured by the Democrats?**

We have few days left for the Congressional session before they recess for election. An effort is being made to obtain a floor vote in the Senate. The House has already voted. This is looking less likely because there has been some wrangling over procedural matters even when both the sides, the Republicans and the Democrats, are bending backwards to emphasise their support for the Bill on the Indo-U.S. [nuclear] relationship. There are some differences of opinion on possible amendments and how to proceed through the Senate, which is a complicated parliamentary format to work in. It may still be that we get a floor vote. If we get a floor vote, I believe it will be strongly positive by a substantial majority. It will be a bi-partisan majority. If we get that vote, the Bill goes to the Conference of the House and the Senate. That is a select group of members. They will rationalise the two Bills into one single Bill and the single Bill will go back for approval to both the Chambers, which is a quick action and then be signed by the President. If that does not happen before the end of this Congress, which will be adjourning by early

December. Then we will have to go back to square one in the Congress all over again and start with the committees, the mark-ups for floor action, and the Conference all over again. How the elections come out will influence that situation because if the House changes hands those committees will be chaired by people on the other political party.

My own view is that it will not matter a great deal [because] both the parties are very supportive of this agreement. But I am afraid that it would draw the process out because there wouldn't be the same pressure on the Congress to act. So it would take more time to re-position, work through the committees and the whole process again. But it will not change the commitment of this Administration to get it done.

**The July 18, 2005 Joint Statement by Prime Minister Manmohan Singh and President George W. Bush and the March 2006 Separation Plan are a win-win arrangement for both India and the U.S. in civilian nuclear cooperation. So why are the House of Representatives Bill and the draft Senate Bill trying to change the terms of this agreement into issues of concern over proliferation and why are efforts being made at capping India's nuclear weapons programme? In short, why is the U.S. shifting the goalposts?**

First of all, let me emphasise that the goalposts have not been shifted and they will not be shifted. The Administration has reached an agreement on the deal and for the deal to be implemented, the law has to be changed. The law has to be changed by the United States Congress. They have had certain suggestions to make about legislation and they are in the form of either what we call declaratory points which are not enforceable but are matters of stated opinion. The other type of amendments is in the form of substantive amendments. Most of the people who make those amendments believe that the amendments they are making are within the spirit of the July 18 Agreement. The Indian Government does not agree with that and the Administration does not agree in every case with that either. So we are trying to soften and change some of those amendments. And the question is what is the best tactic for doing that?

We have judged that it is not the best tactic to change the amendments on the floor of the Senate. That it is better to make that effort in the conference between the two Houses. The line that will be taken is that these amendments were put forward in June. That was very early in the process. They were put forward in the committees. Now we have floor votes with overwhelming support. So we would be making the point to the members that the overwhelming intention of the Congress, both the parties, is to see that this Agreement is put in place. So let us not have amendments there we know will make the deal unacceptable to the Indian Government because in their view these would fall outside the parameters of the Agreements of July 05 and March 06.

The second point is that the bilateral agreement which is being negotiated, the so-called 123 Agreement, is the operational agreement. When it is concluded, it would be submitted to the Congress for a vote. That vote will be an up or down vote. There will not be any opportunity to make amendments there. So what we will say to the people is, "Your amendment is a very detailed provision which is changing the law and the issues

that you are worried about are dealt with in the 123 agreement. You will get a chance to vote on that later. If you don't like what you see, you can vote against it. We think that the Agreement will be supportive." We hope that one way or the other, we can soften or remove some of these amendments. But we do not know because it is in the hands of the Congress.

**But the Administration knew that the non-proliferation lobby in the U.S. would get active. Then why did not the Administration take pre-emptive action to put forth its case before the Congress before the non-proliferation lobbies got active?**

We did put our case before the Congress immediately after the legislation was submitted in early May, may be even April. After the July agreement, I started making calls myself to members of the Congress in September 05 to lobby them to support this agreement. But we have a system that permits all parties to put forward their views.

The other point you made is incorrect when you said the aim of these amendments is to cap India's strategic programme. I disagree with that. This negotiation was always about a civil nuclear programme and that is the agreement... It is not a negotiation over India's strategic programme. There was no secret agenda to find a way indirectly to cap India's strategic programme. That is simply untrue. The fact that some of these amendments are objectionable [to India] does not mean that they are amendments which will effectively cap India's strategic programme. They have to do with some genuine concerns that members of the Congress have about matters of non-proliferation, management and handling of nuclear fuels, and so on. It is a complicated area. Obviously, there will be different opinions on things.

**You said you will try to reconcile things in the conference. That is one way of getting around this. The Senate Bill also includes a lot of provisions similar to the House Bill. It may not be in exactly the same language but the thrust is the same. How much of scope is there for reconciling the two in such a way that it is acceptable to India?**

There is some scope which I have already explained. We should first get to know what is really acceptable in the final analysis or what is unacceptable. May be some of the things in there will turn out to be acceptable. For example, there are recording functions which are mentioned, I think, in the House Bill. These are requirements that would be imposed on the Administration. They are not imposed on India.

**It is not so much the reporting. It is an issue of waiver.**

I wouldn't worry about that. The Administration will...

**In the draft Senate Bill, there is a provision that any waiver on nuclear technology transfers to India in areas such as reprocessing and enrichment or on fuel supplies "shall cease to be effective if the President determines that India has detonated a nuclear explosive device after the date of the enactment of this Act."**

That is an issue that is pretty well taken care of and will not be an issue there. I can't commit on behalf of the United States Congress but my understanding is that that issue can be worked out. I think you might be scrutinising these issues closely.

**After India conducted its nuclear test in 1974, embargoes and technology denial regimes were imposed on it. But India survived for 30 years. Again, after the 1998 nuclear tests, sanctions were imposed on India. Prime Minister Manmohan Singh made it clear twice in Parliament in August that if extraneous conditions, not envisaged in the agreement, find their way into the Congressional legislation and they are going to hurt India, India will "draw the appropriate conclusions." Anil Kakodkar, Chairman, Atomic Energy Commission, has also said that India has got its own three-stage nuclear power programme and that it would go on. So the bottom-line is clear: India will not be unduly worried if this nuclear deal falls through. What is your reaction to that?**

My reaction to what?

**If the deal does not come through, India will not be unduly worried because India has got its own three-stage nuclear power programme and it will go on.**

It is up to India to decide what is in its national interests. If it finds that the agreement isn't helpful, then I suppose it will not accept it. But that is up to India to decide. It is not the impression I have that India thinks this deal is unimportant. I think they think that it is very important; very important to finish, to put into position. But India is a sovereign nation. It will make its own decisions. It is fair to say that you are scrutinising very closely a very complicated process which is being handled fully transparently by two major democracies. That is a recipe for some complication. This is not a deal, which is being cut in the backroom somewhere. This is a deal which is well agreed in the full light of the day and it is being processed by both the Governments in accordance with their democratic arrangements. So it is a very impressive process and it also by definition has some imperfections in it. Right? I think you will agree with that? But we should get some credit for doing it within the full, transparent democratic process in both the Governments. Both of us should get credit for that.

**The U.S. President is very much interested in the Global Nuclear Energy Partnership (GNEP). There are plans to set up international reprocessing centres under the GNEP, especially in the P-5 countries. There is a strong feeling in the nuclear community in India that India is being played out of these international reprocessing centres although it has mastered the art of reprocessing (that is, India will not host any international reprocessing facility). Why isn't India being given its due recognition in this?**

They [India] weren't cut out. In the negotiations, it was very clear that for India to have full access to the GNEP group, it would need to place one of its fast breeder reactors under safeguards. India decided that it would not do that. So India decided not to become a full-fledged member of that group. I guess if they decided to do that later [place one of

its fast breeder reactors under safeguards], they will not then be restricted. That was the understanding at that time.

**Even then you will insist that India should place one of its breeder reactors under safeguards.**

That was the condition in the negotiations. That was well understood and a decision was made by India not to do that.

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